

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 MEDFORD DIVISION

4 **Case 3:24-cv-00755-JR**

5 **David White, Pro Se**
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7 **Portland OR.**
8 dave@salmonprotectiondevice.com

MEMORANDUM OF POINTS
United States Magistrate
Judge Jolie A. Russo

9
10
11 **vs.**

12
13 **Defendant 1. (D1)**
14 **Dave Coffman, as geoscientist**
15 **Resource Environmental Solutions,**
16 **Corporate Headquarters – Houston**
17 **6575 West Loop South, Suite 300**
18 **Bellaire, TX 77401**
19 **713.520.5400 x6134**

20 **Defendant 2. (D2)**
21 **Mark Bransom in his capacity as Chief Executive Officer of**
22 **Klamath River Dam Renewal Corp.**
23 **info@klamathrenewal.org**

24 **Defendant 3 (D3)**
25 **Klamath River Renewal Corporation**
26 **2001 Addison Street, Suite 317**
27 **Berkeley, CA 94704**
28 **Phone: 510-560-5079**

29
30

Legal Counsel for D2 and Klamath River Renewal Corporation (KRRC),
31 **(D3)**

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 16 Telephone: 510.296.5589
 17 *Attorneys for Defendants Mark Bransom and*
 18 *Klamath River Renewal Corporation*

19

20

Table of Authorities

21

18 USC 3 accessory after the fact.

22

16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;

23

Scott, J. M. & Karl, J. (1999) "Local and national protection of endangered

24

species: An assessment," *Environmental Science & Policy*, 2, pp. 43-59.

25

18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on

26

wildlife refuges.

27

28 Background:

29

Case 1:23-cv-00834-AA was dismissed because "this Court lacks subject

30

matter jurisdiction over Plaintiffs' claim". However, in case 3:24-cv-00755-

31

32

JR this district federal court does not lack jurisdiction because of the

1 FERC document violations. Plaintiff requests the Honorable Federal Judge
2 Russo to stay the FERC document 20180315-3093. Plaintiff received the
3 following email from D2 and D3 Legal Counsel (D23LC).

4

5 Mr. White:

6 I represent the Klamath River Renewal Corporation. Our client is in receipt
7 of your recent communications, including emails and voicemails. We are
8 aware of the litigation and your request for a preliminary injunction, and we
9 intend to appear and defend. Contrary to your communication, there is no
10 court order that requires us to cease our activities. Indeed, the Renewal
11 Corporation is complying with our obligations under the license surrender
12 order and other regulatory authorizations.

13 Going forward, we request that any and all communication related to the
14 Project or your litigation be directed to me, the Renewal Corporation's
15 Counsel. Please cease and desist from contacting our employees or our
16 contractors, including Resource Environmental Solutions.

17 Thank you in advance,

18 Laura Zagar

19

20 **Laura Zagar | Perkins Coie LLP**

21 **SAN FRANCISCO OFFICE MANAGING PARTNER**

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27 Laura Zagar is D1 and D2 Legal Counsel (D23LC)

28

Executive Summary

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Plaintiff reviewed 20180315-3093 (FERC) mentioned by D23LC and found many nonsensical items. The FERC document agreement has been violated many times by D2 and D3. Therefore, D2 and D3 are not

following the FERC document as stated by D23LC. Here is the definition

of mitigation from Merriam-Webster. “the act of mitigating something or the state of being mitigated: the process or result of making something less severe, dangerous, painful, harsh, or damaging.”

<https://www.merriam-webster.com/dictionary/mitigation>. In addition to pending floods, over 2,000 fish (including endangered Salmon) and a herd of elk were killed without permits, and arsenic and other contaminants are now blowing in the wind. Plaintiff moves the court for a ruling that D2 and D3 proceeded with little or no mitigation. D1 is an accessory after the fact for these crimes. D2 and D3 we’re not following the FERC document, with 25 items which were technical nonsense. Therefore, among other items plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling which makes the FERC document null and void.

Pacific Corp licensed the total Klamath project since the 1950’s. Just before and during that time most other dams in the Northwest had fish ladders installed. Plaintiff Requests a ruling Pacific Corp is liable for the

1 salmon run decline and they should pay \$250 million to the Klamath Basin.
2 As mentioned in the complaint, over a three-day period Plaintiff distributed
3 500 documents at the Holiday Supermarket in Klamath falls which
4 demonstrated the need to dredge behind the dams as the logical
5 alternative to dam removal. All 500 agreed, except for only 1 person who
6 disagreed. While in Klamath falls, Plaintiff visited the State Police office and
7 talked to an on-duty State Policeman. Plaintiff asked if plaintiff was caught
8 with 100 fish bloating in the sun what would happen to plaintiff. The deputy
9 answered "you would still be in jail." Plaintiff asks Honorable Federal Judge
10 Russo for legal remedy against defendants admitting to killing
11 2,000 fish left bloating in the sun who have not been charged with any
12 crime and are not in jail.

13

14

End of Executive Summary

15

16 The following link should be known as "the FERC document" document:

17

18 https://elibrary.ferc.gov/eLibrary/search?q=searchtext%3D*%26searchfulltext%3Dtrue%26searchdescription%3Dtrue%26datatype%3Dfiled_date%26startdate%3D1904-01-01%26enddate%3D2022-02-11%26docketnumber%3D%26subdocketnumbers%3D%26accessionnumber%3D20180315-3093%26filing%3Dfalse%26alldates%3Dtrue

22

23 Debunking the following items in the document.

24 1. Item (f) states: "the Renewal Corporation, the States, and PacifiCorp

25

26 agree that no order of a court or the Commission is in effect that

27

28 would prevent facilities removal;". However, this doesn't prevent any

29

1 future case like 3:24-cv-00755-JR from being ruled on.

2
3 2. Item (e) states “the Renewal Corporation, the States, and PacifiCorp
4
5 are each assured that their respective risks associated with facilities
6
7 removal have been sufficiently mitigated consistent with Appendix L.”
8
9 Appendix L is not included in the document. This is also requested for
10
11 discovery. Obviously, mitigation has not occurred because of pending
12
13 floods, over 2,000 fish (including endangered Salmon) and a herd of
14
15 elk killed without permits, and arsenic and other contaminants
16
17 blowing in the wind. Therefore, in accordance with the document no
18
19 removal of the dams is allowed!

20
21 3. The document lists no urgency for dam removal.

22
23 4. The J.C. Boyle development according to item (d) on page 26 has
24
25 “(d) a 569-foot-long pool and weir fishway;” clearly this dam just
26
27 needed dredging to keep the fish ladder (fishway) in good
28
29 operating order.

30
31 5. Item 7 page 3: “PacifiCorp evaluated the mandatory fishway
32
33 prescriptions, section 4(e) mandatory conditions, and Commission
34
35 staff’s recommended conditions for relicensing, which it determined
36
37 together would cause the project to operate at an annual net loss.”
38
39 How could one project at a dam that was operating, and a

1 project of 4 dams, producing 163 megawatts per annum, leave
2
3 Pacific Corp with a net operating loss?
4

5 6. This is fuzzy accounting at best; it does not require advanced
6
7 economics to calculate. According to the Government
8
9 Accounting Office (GAO) the average fishway and
10
11 pool costs \$6.3 million to construct and \$26,000 a year to operate.
12
13 This is clearly miniscule compared to Pacific Corps' annual operating
14
15 profit from the entire project. [https://www.gao.gov/assets/rced-91-
16 104.pdf](https://www.gao.gov/assets/rced-91-104.pdf)

17
18 7. Pacific Corp was untruthful in 2005 stating it would cost \$250 million
19
20 to install fish ladders at the Klamath River Dams.
21
22 [https://waterwatch.org/pacificcorp-loses-challenge-of-fish-ladders-
23 over-dams/](https://waterwatch.org/pacificcorp-loses-challenge-of-fish-ladders-over-dams/)

24
25 8. Item 9 on page 3 states: "Congress, however, did not enact the
26
27 required legislation by January 2016, which triggered the Settlement
28
29 Agreement's dispute resolution procedures. Following several dispute
30
31 resolution meetings, Oregon, California, Interior, Commerce, and
32
33 PacifiCorp proposed amendments to the Settlement Agreement that
34
35 would eliminate the need for federal legislation and instead achieve
36
37 dam removal through a license transfer and surrender process." This
38
39 is utter nonsense. The reason the U.S. Congress didn't act is

1
2 because they don't approve of Dam removal. There is no agreement
3
4 like this which can usurp the will of the people through the federal
5
6 Congress.

7
8 9. Item 21 on page 7 states: "They state that removal of the dams will
9
10 restore over 400 miles of salmon habitat in the Klamath River, which
11
12 in turn will result in improvements in human health in their
13
14 communities, including decreased rates of diabetes and heart
15
16 disease." There is absolutely no actual science which would prove
17
18 removing dams would "result in improvements in human health in
19
20 their communities, including decreased rates of diabetes and heart
21
22 disease." This is junk science at best or simply an inference!

23
24 However, there is confirmed data of arsenic in the silt which is deadly
25
26 to all animal and human life forms due to dust created and blowing in
27
28 the wind. This is a health crisis. KRRC should have dredged behind
29
30 the dams to remove the contaminated silt. This is one more of many
31
32 mitigation plans which was not executed, thereby violating that
33
34 agreement (the document), and D2 and D3 should not have
35
36 proceeded with removal of the dams.
37

- 1 10. Item 21 on page 8 states: “They indicate that many tribal
2 members also rely on salmon and other anadromous fish for their
3 livelihoods, and the Yurok Tribe hopes that dam removal will allow it
4 to reestablish its commercial fishery, which ceased operation in 2016
5 due to low salmon returns”. This could have been easily remedied in
6 2005 with a fish ladder installation on Iron Gate Dam and dredging
7 behind the dam. Legitimate science would have started by performing
8 mitigation brainstorming sessions with well-informed scientists and
9 stakeholders and documenting every possible scenario. Two
10 prominent areas were not mitigated:
11 a. Killing of wildlife.
12 b. Arsenic and other contaminants in the silt which is drying and
13 blowing in the wind. Humans and other animals are breathing
14 these contaminants.
15
- 16 11. Item 22 is junk science. No proof is given for those inferences.
17
- 18 12. Item 23 is nonsensical. No proof is given for anything. In
19 actuality the opposite is true. The fishing has been decimated, with
20 silt and mud everywhere and no cleanup, the drying of which is
21 blowing contaminants in the wind.
22
- 23 13. Item 24 is truthful with this statement in it: “Many question
24 whether the Renewal Corporation is technically and financially
25
26
27
28
29
30
31
32
33
34
35
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37
38

1
2 capable of operating the project, removing the developments, and
3
4 restoring the environment.” Plaintiff shares this view which is proved
5
6 in what has transpired since the project began.

7
8 14. The FERC document which Defendants said they are following
9
10 has Items 24-30 below which are very valid concerns of local
11
12 stakeholders who feared what has happened. The FERC commission
13
14 obviously ignored these concerns and the defendant pseudoscientists
15
16 performed no mitigation whatsoever for these valid concerns.
17
18 Plaintiff calls D1 and D2 pseudoscientists because they clearly
19
20 operate on a scientific belief system and not an open-mind scientific
21
22 system as required by the scientific method.

23
24 15. Items 35 through 37 the FERC report asserts that the
25
26 Commission didn't care about the valid concerns and they knew
27
28 about them. They should have stopped the project until the concerns
29
30 were mitigated.

31
32 16. Item 53 page 16 requires a detailed plan D2 and D3 were to
33
34 provide to FERC. Plaintiff requests this detailed plan as one request
35
36 for discovery.
37

- 1 17. Item 55 on page 17 details the money received by D2 and D3.
2
3 Anything above the \$30 million sought in the complaint filed in this
4
5 case must be returned to the entities which gave the money except
6
7 for 10% given to the whistle blower, the Plaintiff. Plaintiff requests the
8
9 trust accounts amounts be transferred to Salmon Protection Device
10
11 and be dissolved thereafter.
12
- 13 18. Items 55 to 68 detail project cost estimates.
- 14
15 19. Item 69 states “Additionally, the Renewal Corporation stated
16
17 that AECOM, the contracting company secured by the Renewal
18
19 Corporation to develop the Definite Plan, is working to develop a risk-
20
21 management plan that will identify all potential project risks and
22
23 develop mitigation strategies to avoid and reduce the impact of
24
25 unexpected events associated with facilities removal. As part of the
26
27 risk-management plan, AECOM is developing a risk register to assist
28
29 in identifying potential risk elements, their likelihood, and expected
30
31 Consequences.” However, earlier in the document FERC required
32
33 D3 to develop a mitigation plan. D3 then made AECOM
34
35 responsible for the non-mitigation plan. However, Plaintiff requests a
36
37 ruling from Judge Russo that D3 is still responsible for this non-
38
39 mitigation.
40

1 20. The conclusion didn't take into account any valid concerns of
2
3 local stakeholders listed in the document.
4

5 21. Item 2 on page 25 proves J.C. Boyle dam had a fish ladder.
6
7 Dredging upstream side of the dam would have kept the fish ladder
8
9 working for at least another 50 years. Total cost of dredging all 4
10
11 dams and putting a fish ladder on Iron Gate dam would have been
12
13 less than \$150 million and could have been paid for by Pacific Corp
14
15 over a ten-year period.
16

17 22. Copco No. 1 didn't have a fish ladder. It would have cost \$6.3
18 million to install one
19
20 and also dredge behind the dam. The Copco No. 2 and Iron Gate
21
22 dams are similar in that they don't have fish ladders.
23

24 23. Item 53 on page 30 states Pacific Corp, the licensee, must put
25
26 permanent deer fences up to prevent problems. This did not occur,
27 making Pacific Corp responsible for the Elk Herd deaths on the
28
29 project as well.
30

31 24. Article 58 page 31 states "Pacific Corp, the licensee, must for
32
33 the conservation and development of fish and wildlife resources,
34
35 construct, maintain, and operate, or arrange for the construction,
36
37 maintenance, and operation of such facilities and comply with such
38
39 reasonable modifications of the project structures and operation as

1
2 may be ordered by the Commission upon its own motion or upon the
3
4 recommendation of the Secretary of the Interior, Oregon State Game
5
6 Commission, or California Department of Fish and Game, after notice
7
8 and opportunity for hearing and upon findings based on substantial
9
10 evidence that such facilities and modifications are necessary and
11
12 desirable, reasonably consistent with the primary purpose of the
13
14 project, and consistent with the provisions of the Act.” This includes
15
16 fish ladders. Pacific Corp knew about this requirement. As stated in
17
18 previous points Pacific Corp was untruthful saying it would cost \$250
19
20 million to install fish ladders. Pacific Corp must now be required to
21
22 pay for the installation of a fish ladder on the Iron Gate Dam as soon
23
24 as possible and pay for a salmon Protection Device to fix the
25
26 downstream fish ladder entrance (salmonprotectiondevice.com).

27
28 25. Article 72 on page 32 and 33 states Pacific Corp, the licensee,
29 is allowed to spread any net operating loss (NOL) over many years.

30
31 Therefore, Pacific Corp had no reason to not install fish ladders in
32
33 2005 which would have restored all fish runs within seven years.

34
35 26. Had this been done everyone in the Klamath Basin would now
36
37 be happy with the Salmon and other fish runs restored, and flood
38
39 control with cheap, clean energy still being provided.

1
2 Rulings requested.
3

4 1. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
5
6 which makes the FERC document null and void.
7

8 2. Plaintiff moves the honorable federal Judge Jolie A. Russo to charge
9
10 D1, D2 and D3 with over 2,000 counts of killing wildlife (including
11
12 endangered salmon) and order federal marshals to arrest them.
13

14 By 18 U.S. Code § 41, 6 months' jail for each of 2,000 counts would
15
16 be 1,000 years in jail each person. Also 16 USCA § 1532(19).
17

18 Defendants and their employees
19

20 should be now be in Jail awaiting a court date and not working to
21
22 destroy Iron Gate dam.
23

24 3. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
25
26 that defendants must cease and desist removal of the Iron Gate dam
27
28 and restore anything they have destroyed thus far.
29

30 4. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
31
32 Pacific Corp must design and install a fish ladder at Iron Gate dam
33
34 and pay salmonprotectiondevice.com \$500 thousand to install a
35
36 salmon protection device at the downstream side of the new fish
37

1 ladder.

2
3 5. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
4 Pacific Corp is liable for the salmon run decline on the Klamath River
5 basin and they should pay \$250 million to the Klamath Basin groups
6 mentioned in opposition to dam removal in the document.
7

8
9
10
11 6. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
12 D23LC must provide to Plaintiff the discovery plaintiff already asked
13 for and D23LC refused. Please rule they are in violation of standard
14 court procedure and must give every request of discovery to Plaintiff
15 in a timely fashion. Time is of the essence.
16
17

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19
20
21 7. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
22 the detailed plan must be provided to Plaintiff as a discovery request.
23

24
25 8. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
26 that KRRC is still responsible for this non-mitigation described in the
27 items presented above.
28

29
30
31 9. Plaintiff moves the honorable federal Judge Jolie A. Russo to a ruling
32 that anything above the \$30 million sought in the complaint filed in
33 this case must be returned to the entities which gave the money
34 except for 10% given to the whistle blower, the Plaintiff. Plaintiff
35
36
37
38

1 requests the trust accounts amounts be transferred to Salmon
2
3 Protection Device and be dissolved thereafter.
4

5 10. Plaintiff moves the honorable federal Judge Jolie A. Russo to a
6
7 ruling Pacific Corp, the licensee, must be responsible for the Elk Herd
8
9 deaths on the project as well.
10

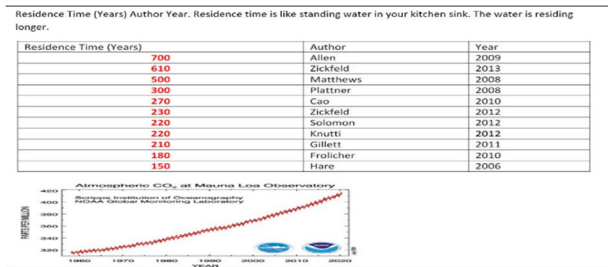
11 11. Plaintiff mentioned residence time of atmospheric carbon
12
13 dioxide. This is an explanation of the residence time for
14
15 Atmospheric Carbon dioxide. Residence time is like standing water in
16
17 a kitchen sink with the drain plugged. The water resides for a longer
18
19 period of time.
20

21 Retention time is the same idea as residence time. The average
22
23 residence time for carbon dioxide is the average time a molecule of
24
25 carbon dioxide, for example, stays in the troposphere, according to
26
27 more than 160 PhD's in 19 published manuscripts summarize in one
28
29 published manuscript. Anything we have done or will do with
30
31 emissions of carbon dioxide will take 150 years to have any effect.
32

33 Proof is any major events which would have lowered atmospheric
34
35 carbon dioxide worldwide for which there is still no effect in the
36
37 carbon dioxide rise data.
38

- 1 ➤ Oil embargo in the 1970's, for almost two years the worldwide carbon
 2 dioxide emissions would have dropped by 90%.
- 3 ➤ Multiple recessions each one the worldwide carbon dioxide emissions
 4 would have decreased by 40% for at least one year.
- 5 ➤ Worldwide recession in 2009. A 70% reduction in emissions of
 6 carbon dioxide for almost two years.
- 7 ➤ COVID-19 pandemic. A 6% reduction in emissions for 1.5 years.

8 You can clearly see no signature from these events in the NOAA data.



10 Unrealized Global Temperature Increase: Implications of Current
 11 Uncertainties, Schwartz, S. E. J. Geophys. Res. , 2018, doi:
 12 10.1002/2017JD028121.

13

14 *David C. White*

15

15 David C. White Pro Se. 5/12/2024